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Public Hearing Comments -- Reno Nevada

Present by the Rural Alliance for Military Accountability

(RAMA)

Draft Environmental Impact Statement

U.S. Department of Energy

Geologic Repository for the Disposal of Spent Nuclear Fuel

and High-

Level Radioactive Waste at Yucca Mountain, Nye County,

Nevada

Good Evening, My Name is Grace Potorti and I am the Director of the Rural Alliance for Military Accountability (RAMA).

RAMA is an organization that supports, educates, and helps rural communities organize to address issues and problems caused by U.S. military training programs as well as activities proposed by the U.S. Departments of Energy (DOE).

RAMA's staff and volunteers have reviewed the Draft Environmental Impact Statement (DEIS) for the proposed High-Level Waste Repository at Yucca Mountain, Nevada. Our review has identified three significant deficiencies with the DEIS. Taken together, we contend these

- 1 deficiencies render the DEIS wholly inadequate as a federal decision document per the requirements of the National Environmental Policy Act (NEPA). In our view, the DEIS does not conform to NEPA implementing regulations administered by the Counsel of Environmental Quality, (CEQ) 40 CFR Parts 1500, or DOE's own NEPA implementing regulations contained in 10 CFR 1021.

- 2 Deficiency Issue One: Under Sec. 1500.2(e) of CEQ's regulations, federal agencies are required to use the National Environmental Policy Act (NEPA) process to identify and assess reasonable alternatives to proposed actions. This analysis must also consider ways to avoid or minimize adverse effects of such actions upon the quality of the human environment.

Given restrictions contained in the Nuclear Waste Policy Act as amended, which specify that only Yucca Mountain can be considered as a repository for high-level waste, DOE has in part focused the analysis in the DEIS on alternative repository design strategies.

Specifically, the DEIS assess various thermal load scenarios (high, intermediate and low) as well as numerous engineered barrier systems that would supposedly contain the waste from the biosphere for 10,000 years.

- 3 Taken together, however, none of these alternative design strategies present a concise workable proposed actions. We also understand that DOE will not decide upon, or otherwise present, a comprehensive repository design in the Final EIS. Accordingly, members of the public will not be afforded an opportunity to see how DOE will avoid or minimize adverse effects of a proposed repository at Yucca Mountain. DOE's EIS process is thus deficient because it does not -- and will not -- address ways to avoid or reduce adverse environmental effects.
- 4... Deficiency Issue Two: In the case of Yucca Mountain DEIS, we fully

4 cont.

contend that DOE has bastardized the Tiering process as defined under CEQ regulations Sec. 1502.20 and 1508.28.

Specifically, CEQ regulations require federal agencies to assess the effects of major federal actions on the human and natural environment. And where such actions involve the adoptions of a broad program that contains groups of concerted actions that are clearly and systematically connected, federal agencies are required to follow NEPA "Tiering" requirements.

Tiering refers to NEPA analysis presented through preparation of Programmatic Environmental Impact Statements - otherwise known as PEIS documents. The PEIS allows federal agencies to address broad program or policy decisions that are subsequently followed by narrower EIS statements that address site-specific decisions.

Over the past 15 years, DOE has used the PEIS process extensively. The process has been employed to examine many issues such as the disposition or surplus plutonium, managing the nuclear weapons stockpile, and selecting regional disposal sites for DOE low-level and mixed low-level waste.

Clearly, the concept of Tiering is used to make a broad program decision that will later be depend on specific EIS analysis of lesser scope.

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In other words, Tiering is appropriate when it helps the lead agency (in this case DOE) to focus on the issues that are ripe for decision and exclude from consideration issues that are not yet ripe for decision.

As stated above, in the case of Yucca Mountain DEIS, we fully contend that DOE has bastardized the Tiering process as defined under CEQ regulations. And while the DEIS does not report to be a programmatic document, DOE is planing to used the document to make wide ranging programmatic decisions.

For example, the DEIS clearly identifies alternative transportation modes and routes, and it reports to make "comparative decisions" on one or more of these alternatives as part of the EIS decision process. It also expressly states that a site specific assessment of Nevada transportation modes and routes will follow, once the mode and route comparative siting decisions are made. And yet the level of analysis in the DEIS is sorely inadequate to support comparative decisions for transportation modes or routes in Nevada.

The DEIS further fails to identify the cross-country rail and truck routes used in DOE's own transportation impact analysis.(1) Hence, where programmatic decisions at the national level are clearly warranted, DOE has chosen to avoid the identification of transportation modes and routes. In other words, much like the analysis for Nevada specific transportation modes and routes, DOE has conveniently avoided

4 cont. making any national siting decisions for transporting nuclear waste to Nevada.

This means that people outside Nevada will share the same fate as Nevadans; that is -- we can all enjoy not knowing who will be affected by the transportation of nuclear waste to a proposed repository at Yucca Mountain.

5... Deficiency Issue Number Three: CEQ regulations Sec. 1501.6 require federal agencies to cooperate in the NEPA process. Yet DOE has conveniently chosen to ignore this mandatory requirement.

Specifically, federal agencies that have jurisdiction by law are required by CEQ regulations to be a cooperating agency and to assist the lead agency in preparation of EIS documents. CEQ regulations 1502.9 further require the lead agency (which in this case is DOE) to work with the cooperating agencies. Also, lead agencies must obtain EIS comments from other federal agencies as well as cooperating agencies.

In the case of the DEIS for the proposed repository at Yucca Mountain, DOE has identified several transportation options that call for construction of hundreds of miles of new rail line over vast areas of central and southern Nevada. These proposed rail corridors would traverse public lands under the jurisdiction of the Bureau of Land Management (BLM). Despite this fact, however, DOE has decided not to involve BLM in the repository EIS process.

This is completely unacceptable given that BLM has clear jurisdiction over these public lands. At a minimum, BLM would be required to establish rights-of-ways for the rail corridors. And given the magnitude of designating 5,000 plus acres for this "single use activities" along with the requisite impacts on the human and natural environment, we contend that BLM would be subject to the NEPA process.

In other words, if DOE selects one of the rail corridor options, thought its phantom and largely bogus EIS process, we contend that BLM would be required to prepare an EIS to support such a major federal decision. Be this as it may, DOE has chosen not to involve BLM as a cooperating agency.

Concluding Remarks

Since DOE will not decide upon -- or otherwise present a comprehensive repository design in the Final EIS, we contend the DEIS is wholly deficient. Clearly, DOE's EIS process is not intended to afford members of the public an opportunity to see how adverse effects from the proposed action will be avoided or minimized.

Likewise, the NEPA analysis in the document is segmented, which can only

5 cont. lead to fragmented decision making. In our view, DOE has bastardized the NEPA process by leaving some of the most significant issues and impacts un-assessed. DOE has either refused to assess, or has deliberately postponed key decision concerning national and local transportation modes and routing alternatives. Moreover, by pursuing this process DOE conveniently avoids compliance with NEPA Tiering requirements.

DOE has also avoided mandatory requirements that stipulate involvement of other federal agencies in the NEPA process. Again, this is unacceptable, given the clear jurisdictional control these agencies have over the proposed actions defined in the DEIS.

6 Finally, CEQ regulations 1502.9 require draft Environmental Impact statements to fulfill and satisfy the requirements established for final statements in section 102(2)(C) of the National Environmental Policy Act. This means that if a draft statement is deemed inadequate as to preclude meaningful analysis, the agency must prepare and circulate a revised Draft EIS.

Given my comments this evening, and comments by others here to night, RAMA believes the DEIS for the proposed repository at Yucca Mountain is deficient. Accordingly, DOE must reassess its approach to NEPA by circulating a revised Draft EIS for the repository program.

Thank You,



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Footnote:

1 [TRW, Environmental Baseline File for National Transportation, with Data Files (June, 1999), Chapter 4]